

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION CONFERENCE COMMITTEE ON SENATE AMENDMENTS TO HOUSE BILL 226

Call to Order: By **CHAIRMAN RIC HOLDEN**, on April 17, 2001 at 5:23 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Rep. Keith Bales, Chairman (R)
Sen. Ric Holden, Chairman (R)
Rep. Ronald Devlin (R)
Sen. Greg Jergeson (D)
Rep. Monica Lindeen (D)
Sen. Tom Zook (R)

Members Excused: **REP. LINDEEN** was present when the meeting was called to order, but left shortly, giving her proxy to **SEN. JERGESON**. **REP. DEVLIN** was not present when the meeting opened, but came in before the vote.

Members Absent: None.

Staff Present: None.

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB226, 4/17/2001

Conference Committee Meeting on HB226

SEN. HOLDEN began the meeting by saying there should be some time spent in discussion before the committee started addressing any changes in the amendments. He said **REP. BALES** and he met with **GOV. MARTZ** that afternoon at 3:00. He said they went over the bill as it stands right now. He said **GOV. MARTZ** is not going to accept the Senate version or the House version, and they do not want to accept the original bill. At this point, he said, the

only thing they would agree to is giving the counties, or a mixture of the counties, cities and schools, 10% of the royalty money. He said that would only be after this biennium, so there wouldn't be anything paid out in the first two years. If there was a growth in mineral royalty income, they would agree to pay out 25% of the growth. However, he said the growth revenue is expected to be zero, unless something happens in the next few years. He said would like to have discussion as to where to go now, since at this point, anything they sent there would be rejected.

REP. LINDEEN asked "anything we send there will be rejected?"

SEN. HOLDEN said anything outside of what the **Governor's Office** told us they would sign would be rejected.

REP. LINDEEN asked **SEN. HOLDEN** to clarify if the 10% was anything above the projected revenue.

SEN. HOLDEN said they would agree to pay out 10% of the royalty money, the total dollars, that came in, and 25% of any new dollars generated within the next two years, and then after this biennium, it would "kick down" to 10% of the total dollars received from the federal government. "Your community would receive 10%," he said.

SEN. JERGESON asked at what level the 25% begins. He said if in 2004, the federal mineral royalties decline down to \$18 million, then 10% would be distributed of the \$18 million, but where does the 25% of the additional revenues kick in, he asked. He asked if it would be in the 2004 receipts, or in just this biennium.

SEN. HOLDEN said it was just in this biennium over what is projected. In the next biennium, he said, it would just be flat, whatever the percent was. He said in talking to the counties, he did not find any counties who were willing to accept the **Governor's** recommendation on that. He continued, that in fact, what he did find out, was that if this could not be resolved in session, in a few weeks the counties were ready to file lawsuits.

REP. LINDEEN asked if they have considered overriding the veto.

SEN. HOLDEN said it was possible, but they would do that probably from home by mail.

REP. BALES said that is the decision the committee has to make. "We should pick a base figure we can live with and pass that," he said. He said there have been various proposals on the table. He asked if there were sufficient votes to override a veto.

SEN. HOLDEN said there appeared to be enough votes, 86 in the House and 50 in the Senate.

SEN. ZOOK said if the **GOVERNOR** vetoes the bill, the yes votes will fall away, because a lot of the yes votes will support the **Governor** in most cases. He continued by saying to do what **REP. BALES** said, "to dress it up," and maybe increase the 10 to 15%. Maybe they would agree, he said, even though they said they wouldn't. He said the **GOVERNOR** may offer an amendment instead, if there is enough time.

SEN. HOLDEN said he had met with the **GOVERNOR** the first week of January, and had given them the whole session. He said they offered no alternative until the last three weeks when they said 10%, and they had never been willing to negotiate up from that bottom figure.

SEN. ZOOK said he had never seen the bill until a few weeks ago.

SEN. HOLDEN said the House Appropriations Committee held up the bill because they thought the **GOVERNOR** would bring a solution. Then at transmittal deadline the **GOVERNOR** said pass the bill out, we will give you "zero."

SEN. ZOOK said he was not opposed to what the bill was trying to do.

SEN. JERGESON said his efforts to amend the bill were to create a revenue floor to eliminate any state budget deficit, and his other attempt was to allow school districts to be eligible for the distribution of the funds. He continued that during the last eight years Democrats had sustained the **Governor's** vetoes on Republican bills, however, he said he wouldn't count on that in this instance. He said he was not sure the Democrats were inclined to do that at this point. "She might be disappointed," he said.

REP. BALES said after talking to the county commissioners, their bottom line was to take over the next biennium, 75% of the increase over the projected figures, and after the next biennium to go with a straight 25% of the funds returned by the federal government. These funds would go back to the county governments to be distributed by them. He said the idea is those governments deal with the issues and have the overall knowledge. He said the counties would rather see the bill not passed, and go from there. He said they have indicated they are ready to sue if they cannot get a fair percentage of what they feel they are entitled to. He added he did not think suing was in anybody's best interest.

SEN. HOLDEN asked **REP. BALES** if his amendment was to cut down what they were asking for by half. He said, "We are asking them to share 50%, and your solution is to cut it to 25%."

SEN. ZOOK said the counties on their own will decide if they are going to sue or not. He said he approved of the commissioners being the ones to distribute the funds. He added that something was better than nothing, and getting a lower percentage would not even preclude them from taking further action. He said they should take the money they could get and go to court with it, if they had to.

SEN. HOLDEN asked what **SEN. ZOOK** thought about cutting it to 25%.

SEN. ZOOK said he had no trouble supporting that figure although he had a good idea what would happen with the bill.

REP. BALES said the reason the counties hesitated settling for less money was because in other states when counties had settled the judge had told them that they had no case, because they had already accepted money.

SEN. ZOOK said, "I hear what you're saying, but the way the I see it, it is the legislature who is deciding what they get, not the counties."

SEN. HOLDEN said if we passed this, would the **GOVERNOR** have time to bring back an amendment to the floor.

SEN. ZOOK said he did not think that would happen today, because it was just too close to the end of the session.

SEN. JERGESON said if the bill could potentially be on the **GOVERNOR's** desk by Friday, could turn it around that fast? He said he still didn't know what day the session would end.

SEN. ZOOK said, "No one knows."

SEN. JERGESON said if it ends Thursday, there would not be enough time.

SEN. HOLDEN said they had a tough time when talking with the **Governor** getting her to understand what the total dollars were. He then asked **REP. BALES** to pass out his amendments.

REP. BALES moved his amendments. **EXHIBIT(cch84hb0226a01)**

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SEN. HOLDEN pointed out that on Page 2, Line 21 where it said \$26 million, the new revenue projection was \$21 million, and that would have to be amended.

Mr. Moe said they decreased the \$5 million in 2002, and increased 2001 by \$6.183 million, he said it was changed like that because of audit income they were able to move up.

REP. DEVLIN said the amendments basically state they were going to leave the state for the first two years with what they were projected to get, and anything over that goes to the counties. I like the idea of it going to the counties and letting them distribute it. However, he said, he thought 25% of all the dollars in the out year might be a stumbling block with the **GOVERNOR**. He said everyone had high hopes there was going to be some mineral activity, but if that number drops as it has been, then there would be a fiscal impact to the state, and that anybody who is not a member of one of the counties the money goes to, will make it harder for them to override a veto.

SEN. HOLDEN said are you thinking you would like a lower percentage than the 25%.

REP. DEVLIN said he wondered why they switched from anything over a base amount to a flat percentage of everything. "I would like to see the counties start sharing in this money and if we take too hard of a stand, we might lessen the chance it will happen," he said.

SEN. JERGESON asked if the administration had a distribution model in mind.

SEN. HOLDEN said they never told us what that was.

SEN. JERGESON said when he looked at the federal statutes, he did not see counties named as recipients, instead he saw references to conservation districts, schools and political subdivisions. He said he believed a number of legislators voted for this bill because they thought the money would be go to political subdivisions such as school districts.

SEN. ZOOK said if the committee did that they would be asking for a "dogfight." He said the county commissioners should decide because they were an elected governing body, and other groups should come to them to request the money, and be required to justify their need for it.

REP. DEVLIN agreed and said it was better for the money to come unrestricted to the counties, because county needs were

different. He said then if they end up with a surplus, the money can be moved around. He stated the money should be as unrestricted as possible.

SEN. HOLDEN asked **REP. BALES** if he would change his motion to reflect the new revenue estimate of \$21 million from \$26 million.

REP. BALES agreed to do so.

REP. DEVLIN asked about the possibility of segregating Amendment 5. He said he agreed with the position of the amendments that the funds should be going to the counties, but his position was they stood a much better chance of them going through with the **Governor** if they left a revenue floor.

SEN. HOLDEN so if this was accepted the only way the counties would ever receive any money was when the revenue was over \$21 million.

REP. DEVLIN said \$20 million was not a magical figure but there was a better chance of the bill going through if the state had a portion they could count on. He said maybe they could go to \$15 million. He said by keeping a revenue floor in place, it would not be such a drastic hit on the state.

REP. BALES said if they segregated #5 they needed to segregate #4. He said he was struck by the mention of the \$15 million figure because if the floor went to \$15 million from the \$20 million, then that would be the 25%.

SEN. HOLDEN said looking at the fiscal note of 1996-2000, the revenue might never be more than the \$20 million. "If you accept that figure, the amount counties receive will always be zero, and the future predictions have it at zero," he said. "My argument to the **Governor** is that if we accept these revised figures, then you are asking us to take 75% of zero, " he said.

REP. DEVLIN withdrew his motion to segregate, agreeing the original way was best.

SEN. ZOOK said if the committee drops it to 20%, there might be a better chance. It might go forward then, he said, but if the 25% is kept, they have already said they will not go for it.

REP. DEVLIN said **Director Swysgood** was not willing to deal 5% now, but he didn't know what his reaction would be after the bill passed. He said they have been adamant about 10% all the way through.

SEN. HOLDEN proposed a phase-in of the 25% so it would be effective by the end of the next four years.

REP. BALES said that would be 12.5% in 2004, and 25% by 2005.

SEN. ZOOK said they might possibly accept that, but he felt the committee was at a yes or no point and the negotiating had been done.

SEN. HOLDEN said it gets the bill to where the counties' bottom line is, and gets it there by the next biennium.

SEN. JERGESON said he could vote for that but he would segregate Amendments 1, 6 & 7.

REP. BALES said that county commissioners are the only elected subdivisions and are the ones who should receive the money.

SEN. ZOOK said the distribution should be left up to the county commissioners.

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SEN. HOLDEN asked **REP. BALES** if he would like to withdraw his motion and re-make it to reflect the changes.

REP. BALES said he moved the Amendments 1, 2, 3, 5, 6 & 7 as written and moved Amendment 4 to insert 12.5% in the fiscal year 2004, and 25% in 2005 and each year thereafter.

SEN. HOLDEN said they needed to change Page 2, Line 21.

REP. BALES moved that should be changed to strike \$26,756,000 and insert \$21,756,000, the new projected revenue figures.

SEN. HOLDEN asked **Director Swysgood** if he would be interested in addressing the committee.

DIRECTOR SWYSGOOD said he thought he understood what they were doing to some degree. He said the amendments were giving them 25% of the revenue over and above the projections for 2002 and 2003. He also said they were reducing the revenue projections by \$5 million, so he assumed they thought they would get 25% of \$5 million.

SEN. ZOOK said those figures reflected the new revenue estimate.

Director Swysgood said, "So that was what the HJR 2 now contained, the \$21 million." He said then he understood that.

Then he continued, in 2004 they would be getting 12.5% of all the money that is received and then 25% thereafter, phased in the next fiscal year. "I think that is what you are doing," he said.

REP. BALES said on the first biennium, he had understood **Director Swysgood** to say differently from what it was, in essence, it would be 100% of the revenue estimate.

Director Swysgood said, "Oh, so we've changed that too, huh." He asked the Chairman what he wanted from him.

SEN. HOLDEN said he wanted the **Director** to offer comments.

SEN. ZOOK said he needed some clarification too, because he understood the percentage was of the amount in excess of \$20 million. He understood the state was assured of \$20 million and the percentage was applied over that.

Director Swysgood said he didn't read that amendment that way. He read it that after 2003 it was 25% of all monies.

REP. BALES said the way it reads now is that in 2004, it would be 12.5% of all of the money that comes in pursuant to Section 3, and in 2005 and thereafter it would be 25% of all that comes in thereafter. He said the committee struck the term "in excess of \$20 million" in Amendment 5.

SEN. HOLDEN said that would be in agreement with the **Governor's** recommendation, except that they were using a 10% figure.

Director Swysgood said there was a little bit more difference here than what they offered, and that related to going from 25% in the current biennium up to 100%. He said their offer was 25% for the next biennium above the revenue projections each year, and then after that, 10% of all the revenue that was generated.

SEN. HOLDEN said they had talked about that earlier.

SEN. JERGESON said with the sole distribution being to the to the county commissioners, he could not support it.

SEN. HOLDEN said if the projections are correct and average around \$20 million dollars each year, the cut is always going to be zero percent. He said they should vote on the amendment and if it fails, they could talk about something else. If it passes, the committee can get on with this. He asked for a **Roll Call Vote**.

ROLL CALL VOTE ON BALES AMENDMENT

REP. BALES	AYE	SEN. HOLDEN	AYE
REP. DEVLIN	AYE	SEN. ZOOK	AYE
REP. LINDEEN	NO	SEN. JERGESON	NO
	2		2

The motion carried.

SEN. HOLDEN asked if there were and other motions. He said, if not, they take the motion to accept the committee report as amended.

SEN. ZOOK made the motion to accept the committee report as amended.

ROLL CALL VOTE TO ACCEPT THE COMMITTEE REPORT AS AMENDED

REP. BALES	AYE	SEN. HOLDEN	AYE
REP. DEVLIN	AYE	SEN. ZOOK	AYE
REP. LINDEEN	AYE	SEN. JERGESON	N
	3		2

The motion carried.

ADJOURNMENT

Adjournment: 6:30 P.M.

SEN. RIC HOLDEN, Chairman

Jane Nofsinger, Secretary

RH/KB/

EXHIBIT (cch84hb0226aad)